

Region 8 Congressional and Intergovernmental Weekly Report
For the Week Ending 3/11/16

1. Past Week's Happenings:

3/8/16 – RCL responded to inquiry from Representative Polis' office regarding a constituent request on Rocky Flats. Bill Murray had responded to these requests in an August 2015 letter and a February 2016 email to the constituent. Those were forwarded to Representative Polis' staffer.

3/9/16 – RCL received a call from Chad Campbell from Senator Tester's Office looking for an update on the answers to his 2/29/16 email. Response is being drafted by Mike Cirian.

3/9/16 – RCL received an email from Jeff O'Neil from Representative Perlmutter's staff looking for an update on our response to their suggested legislative language regarding the Rocky Mountain Arsenal deed restrictions. Draft response is being circulated in EPR.

3/10/16 – RCL received an email from John Whitney from Senator Bennet's asking where we are with reimbursements to La Plata County and Durango. A response was provided on 3/11/16.

3/10/16 – Joan Card, Johanna Miller and Richard Sisk had a conference call with Senate EPW staff regarding GKM questions. Follow-up questions were sent and will need to be responded to.

Roll-Outs/Notifications Sent this Week:

3/9/16 – Sent GreenStream "Green Streets: The Road to Clean Water" video to intergovernmental contacts.

3/11/16 – Announcement of application for Period for the Presidential Innovation Award for Environmental Educators sent to Congressional and intergovernmental contacts.

2. Next Week's Happenings:

No formal meetings scheduled.

No rollouts planned.

3. Upcoming Hearings/Meetings:

- Topic: Examining Federal Administration of the Safe Drinking Water Act in Flint, MI, Part 3
Committee: House Oversight
Date: March 17, 2016, 10 am
EPA Witness: Administrator
- **Budget Hearings will begin in earnest in 2 weeks!**
 - Tuesday March 22 @ 9:30 AM in Rayburn Room TBD – FY 2017 President's Budget (PB) - House Appropriations Interior Subcommittee Hearing – Administrator witness

- Tuesday March 22 @ 2:00 PM in Rayburn Room TBD - FY 2017 PB - House Energy and Commerce Hearing – Administrator witness
- Tuesday April 19 @ 10:00 AM in 406 Dirksen - FY 2017 PB – Senate Environment and Public Works Committee Hearing – Administrator witness
- Wednesday April 20 @ 10:00 AM in Dirksen 124 - FY 2017 PB - Senate Appropriations Interior Subcommittee Hearing – Administrator witness

4. Legislative Updates:

- Washington State Legislature Okays Bill About Colstrip Coal Plants.
http://billingsgazette.com/business/washington-legislature-oks-bill-about-colstrip-coal-plants/article_ad6959a7-9c7b-5c6e-85b9-f41879b9d071.html

5. New or Outstanding Letters or Inquiries:

- **New letter** assigned to Region 8 for response: Letter from Montana State Senator Dee Brown regarding CFAC. Formally assigned to EPR on Friday 3/11 for response.
- **New letter** assigned to Region 8 for response: Letter from Representative Tipton regarding GKM. Formally assigned to EPR on Tuesday 3/8 for response.
- **Outstanding Request:** Representative Perlmutter's request to review legislative language regarding the deed restrictions at Rocky Mountain Arsenal. A draft response is being routed through EPR.
- **Outstanding Request:** Senator Tester, 1/29/16 letter to Administrator McCarthy regarding CFAC. Formally assigned to EPR on Monday 2/29/16.
- **Outstanding Request:** Several GKM Citizen Letters.

6. Congressionals and Other Elected Officials in the News/on Social Media:

- Mayor Suthers 'frustrated' by impasse on stormwater projects in Colorado Springs. Story mentions EPA's August inspection and warning that we might sue to restrict the city's MS4 water permit. <http://gazette.com/mayor-suthers-frustrated-by-impasse-on-stormwater-projects-in-colorado-springs/article/1571578>

CLEAN WATER RULE:

Hoeven mulls approps rider targeting WOTUS

Tiffany Stecker, E&E reporter

Published: Thursday, March 10, 2016

A Senate Republican said today he would revive an appropriations policy rider that would block the Obama administration's Clean Water Rule unless another strategy emerges for nullifying the contentious regulation.

"My plan at this point [is] yes," North Dakota Sen. John Hoeven said. "It could change if there's a better strategy, but I am going to continue to try to get it done."

Republicans included in the fiscal 2016 spending bill a provision to block the so-called Waters of the United States (WOTUS) rule, which defines which waterways and wetlands receive automatic protection under the Clean Water Act. That effort to block the rule fell short.

The Fiscal 2017 Budget & Appropriations Report is a one-stop resource for tracking the fiscal 2017 spending process for environmental and energy accounts. [Click here](#) to view the report.

The U.S. EPA-Army Corps of Engineers regulation is supported by environmental groups, which say it would expand needed waterway protections. WOTUS opponents -- including agriculture groups, developers and many state governments -- say that the administration overstepped its authority in developing the rule and that its implementation could infringe on private property rights.

WOTUS is on hold as a federal appeals court mulls challenges against it. The 6th U.S. Circuit Court of Appeals recently ruled that appellate courts have jurisdiction to hear the numerous complaints on the rule.

Sen. Lamar Alexander (R-Tenn.), chairman of the Energy and Water Development Appropriations Subcommittee, said last week he hopes the committee will write a rider-free appropriations bill by April.

Acknowledging Alexander's intentions, Hoeven said he would support an alternate plan that reverses the regulation.

The Senate has tried to pass two stand-alone bills to block the rule in the last year.

The first, Sen. John Barrasso's [S. 1140](#), failed on a procedural vote 57-41. A Congressional Review Act bill in opposition of the rule -- [S.J. Res. 22](#) -- initially passed in November, but the upper chamber failed to override President Obama's veto of the legislation.

Hoeven said in January that opponents would seek to attach an appropriations rider to block the water rule to the fiscal 2017 Interior Department and EPA spending bill ([Greenwire](#), Jan. 21).

CLEAN POWER PLAN:

Inhofe questions EPA actions since Supreme Court halted rule

[Amanda Reilly](#), E&E reporter

Published: Friday, March 11, 2016

The top Republican on the Senate Environment and Public Works Committee yesterday demanded information from U.S. EPA on agency activities related to the Clean Power Plan.

Sen. Jim Inhofe (R-Okla.) said he was concerned that EPA may be "attempting to intimidate" states into continuing their planning for the program despite the Supreme Court's decision last month to freeze the rule.

In a letter yesterday to EPA Administrator Gina McCarthy, Inhofe asked EPA to describe "clearly and in detail" all agency work on the Clean Power Plan during the stay, including on related model trading rules and a federal plan.

"Since February 9, 2016, when the Supreme Court issued the stay order, the agency's public response has ranged between muddled reticence and outright defiance," Inhofe wrote, "leaving impacted stakeholders and resource-strapped states confused and in limbo."

Since the stay, EPA officials -- McCarthy included -- have stated that the agency would continue working with states that want to keep drafting plans to comply with the program.

Legal experts and former agency officials say that EPA has leeway to continue at least some implementation activities, though they've warned that the agency would face a perception problem (Greenwire, Feb. 18).

Inhofe has long opposed the Clean Power Plan and the Obama administration's broader climate agenda.

He suggested in his letter that the Obama administration was continuing its planning efforts for the Clean Power Plan because of worries by the international community that the United States would not uphold its pledge to reduce its greenhouse gas emissions.

Inhofe also took issue with indications by EPA officials that the agency would not need to bump back all future compliance deadlines should the rule ultimately survive.

Along with information on planning efforts, the chairman's letter requested a definitive response by March 31 to how EPA would handle future deadlines under the program. Inhofe also wants EPA to provide how much funding it's currently allocating to Clean Power Plan activities.

"Whatever legal and policy differences we have on this rule," Inhofe said, "I hope we can agree that states deserve clarity from EPA on its plans and expectations following the stay."

APPROPRIATIONS:

Various obstacles to Senate goal of individual spending bills

George Cahlink, E&E reporter

Published: Friday, March 11, 2016

A tight calendar, flat funding and policy differences could complicate an ambitious Senate Republican goal of passing individual fiscal 2017 spending bills this year.

Senate Republican leaders sought to ease the path this week by saying they would follow a budget agreement last fall that set fiscal 2017 discretionary spending at \$1.07 trillion. The House has not yet

agreed to the spending level and that could cloud chances of getting any spending bills signed into law.

Still, Senate GOP leaders believe sticking to the bipartisan funding level gives them their best shot in years for advancing the bills rather than relying on a year-end omnibus agreement to fund government. They have said the stand-alone measures are their best options for taking on administration policy and showing Congress can function properly.

Sen. Shelley Moore Capito (R-W.Va.), an appropriator, said this week Senate Appropriations subcommittee chairmen have been told they will get their discretionary funding allotments, known as 302(b) allocations, by April 15.

Sen. John Boozman (R-Ark.), a senior appropriator, said having the allocations next month could allow for an early start in an election year with limited legislative days.

"What everybody would like to do is go forward as quickly as possible because we are simply running out of calendar days to get these things done," said Boozman, citing the coming political conventions and the fall campaigns. Congress is currently scheduled to be on recess from July 16 to just after Labor Day.

Without bills in place, stopgap funding would need to be in place by Oct. 1, when the new fiscal year begins, to avoid a government shutdown.

The top Democratic appropriator, Sen. Barbara Mikulski of Maryland, said she too is expecting allocations when the Senate returns from spring recess the week of April 11. She noted Senate appropriators already have had 50 budget hearings and the committee could move spending bills by the end of April.

"We want to stick to the budget agreement," Mikulski said.

While the deal sets the overall spending goal, Senate Appropriations Chairman Thad Cochran (R-Miss.) is responsible for dividing up the \$1.017 trillion among the 12 annual spending bills and assigning top-line figures to the subcommittee leaders to further divvy up. Cochran declined comment.

Balancing spending and riders

While moving bills might show Congress can act, the measures will not contain much in the way of new spending that appropriators typically tout in election years and can help move bills.

The budget deal allows for a \$3 billion increase over current spending, but \$30 billion more than what had originally been called for under strict spending caps that the accord rescinded for fiscal 2016 and 2017.

"Governing is about setting priorities, and given our current fiscal constraints -- especially on non-defense spending -- we are going to have to make some hard decisions this year to make sure the highest priorities are funded," Sen. Lamar Alexander (R-Tenn.), the chairman of the Senate Energy and Water Development Appropriations Subcommittee, said at a hearing earlier this week.

Alexander noted the Obama administration wants a nearly \$3 billion increase for the Energy Department alone for fiscal 2017. He did not specifically comment on the pending allocation, but there's no expectation it would meet the administration's request -- which would match the entire increase called for in all 12 spending bills, under the budget agreement.

Alexander said his bill that funds the Energy Department, the Army Corps of Engineers and federal nuclear programs could move to the floor "pretty easily." But, he said, the key would be keeping off policy riders unless they have the 60 votes needed to overcome Democratic opposition.

Sen. Lisa Murkowski (R-Alaska), the chairwoman of the Interior, Environment and Related Agencies Appropriations Subcommittee, conceded her bill has been a magnet for riders in the past and would likely be again.

Republicans in particular have used the bill that funds the Interior Department, U.S. EPA and several lands agencies to try to block administration environmental and land-use policies. In recent years, those attempts have prevented the bill from leaving committee.

Asked if a push to move bills would force her to limit riders this year, Murkowski said, "We have had riders in appropriations bills for as long as we have had appropriations bills."

Boozman said there will still be riders this year on the spending bills but suggested they might be considered on the floor rather than in committee. He said that would at least allow largely bipartisan spending bills to make it to the floor, where riders could then be offered as amendments.

Sen. Lindsey Graham (R-S.C.), who leads the State and Foreign Operations Appropriations Subcommittee, which funds the United Nations' green programs, said his panel would make the "best of it" with limited funds.

He did not rule out riders but said his "main goal is run the Senate like it should be run" by avoiding controversial add-ons.

Meanwhile, Sen. John McCain (R-Ariz.) took to the floor this week to urge Congress to pass individual spending bills rather than hastily cobbling together a year-end spending omnibus.

The senator said he was building support among more junior GOP senators to reject future spending catchalls that have become commonplace over the last decade.

An omnibus "is not the way to do business. That doesn't inspire any confidence in us on the part of the American people, and it is disgraceful," said McCain, the Senate Armed Services chairman. He said the year-end bills have allowed senior appropriators to add hundreds of millions of dollars for

authorized Pentagon spending and other programs because most lawmakers have little time to review them.

Sen. Richard Shelby (R-Ala.), a senior appropriator and frequent critic of McCain's over unauthorized spending, scoffed at the Arizona lawmaker's criticism and dismissed his threat to block future omnibuses.

"That's nothing new. Senator McCain is not a fan of appropriators and, of course, a lot of people aren't fans of Senator McCain," Shelby added.

EPA:

House watchdog seeks documents on IG probes into porn, fraud

Kevin Bogardus, E&E reporter

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The House's top watchdog is asking for more details on some embarrassing misbehavior at U.S. EPA that has involved watching pornography, drug use and other incidents of fraud and abuse of government resources.

Rep. Jason Chaffetz (R-Utah), the chairman of the House Oversight and Government Reform Committee, sent a letter yesterday to EPA Inspector General Arthur Elkins asking for the investigative reports and related documents for more than three dozen "employee integrity" cases at the agency.

The document request from Chaffetz comes after the inspector general released several reports last month that summarized about a year and a half's worth of cases that documented employee misconduct from EPA's political appointees down to its contractors (Greenwire, Feb. 17).

During that time period, from April 1, 2014, to Sept. 30, 2015, the IG closed 62 employee integrity cases. The agency watchdog still had 124 such cases open as of Sept. 30 of last year.

Chaffetz is asking for reports on some of the more juicy cases of EPA employee misconduct.

For example, the Utah Republican has asked for the investigative report on one GS-15-level employee who was caught watching porn on a work computer while on duty. The IG later discovered that the employee had watched porn regularly at work for several years, leading to that employee to be suspended without pay for five days and banned from teleworking and attaching any external drives to a government computer.

In addition, Chaffetz has asked for the report on another EPA employee who brought marijuana and marijuana pipes through an IRS security checkpoint. That led to a three-day suspended sentence, probation and community service as well as a 21-day suspension from EPA without pay.

Further, the Oversight Committee chairman asked in his letter for the report on one Senior Executive Service employee who billed EPA about \$18,000 in international roaming charges on an agency-issued mobile device who also didn't disclose all foreign travel and claimed work hours while on vacation. That employee resigned before EPA could take disciplinary action.

Chaffetz has been a frequent critic of EPA since he took the helm of the Oversight panel last year, saying once he wouldn't allow his daughters to work at the agency ([Greenwire](#), July 29, 2015). The chairman has delved into several embarrassing incidents at the agency -- allegations of sexual harassment, porn-watching while at work and now EPA's slow response to the drinking water crisis in Flint, Mich.

A spokeswoman for the EPA IG office declined to comment when asked about Chaffetz's letter.